

# TOWN OF BASSENDEAN

## NOTICE OF BRIEFING SESSION

A Briefing Session of the Council of the Town of Bassendean will be held on Tuesday, 23 January 2018 in the Council Chamber, 48 Old Perth Road, Bassendean, commencing at 7.00pm.

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## A G E N D A

**The Mayor will preside at Briefing Sessions. In the absence of the Mayor, the session will be presided over by the Deputy Mayor.**

### 1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

#### Acknowledgement of Traditional Owners

The Town of Bassendean acknowledges the past and present traditional owners of the land on which we gather to conduct this meeting, and pays its respects to their Elders, both past and present.

**Members of the public are requested to sign the attendance sheet located on the table at the rear of the Council Chamber.**

### 2.0 PUBLIC QUESTION TIME

*Members of the public who wish to do so may ask questions at this point in the agenda.*

### 3.0 ATTENDANCES, APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE

### 4.0 DEPUTATIONS

**5.0 CONFIRMATION OF MINUTES**

*This item will form part of the Ordinary Council Agenda.*

**6.0 ANNOUNCEMENT BY THE PRESIDING PERSON WITHOUT DISCUSSION**

*This item will form part of the Ordinary Council Agenda.*

**7.0 PETITIONS**

*This item will form part of the Ordinary Council Agenda.*

**8.0 DECLARATIONS OF INTEREST**

**9.0 BUSINESS DEFERRED FROM PREVIOUS MEETING**

Nil.

**10.0 REPORTS**

**10.1 Adoption of Recommendations En Bloc**

*This item will form part of the Ordinary Council Agenda.*

**10.2 Draft Town of Bassendean Development Bonds Policy – Compliance with Conditions of Development Approval (Ref: LUAP/PLANNG/1 - Timothy Roberts, Planning Officer)**

**APPLICATION**

The purpose of this report is for Council to consider an amendment to the Development Bonds Policy so that the Town can better manage compliance with conditions of development approval.

**ATTACHMENTS**

**Attachment No. 1:**

- Town of Bassendean Development Bonds Policy
- Draft Town of Bassendean Development Bonds Policy

**BACKGROUND**

The Town has an increased interest in development when viewable from the public realm as development has the potential to affect amenity within the Town. The purpose of the Development Bonds Policy is to ensure that landscaping, reticulation, construction of parking areas, screen walls and any other associated works are completed to the satisfaction of the Town. This is achieved through the required payment of a development bond prior to the issue of a Building Permit. Currently payment of a development bond only applies to commercial/industrial development or new grouped or multiple dwelling developments.

The Town of Bassendean Development Bonds Policy was last updated in March 2014. The development bond amount has not changed since the policy was first adopted in 1990. Lately, planning staff have been finding that all works required for the development bond to be refunded are not being satisfactorily completed. This is in part because the outstanding works are often more expensive than the development bond amount itself. Updating the Development Bonds Policy seeks to remediate these increasing constraints, whilst ensuring that development is constructed in accordance with its development approval and without the need to commence resource intensive compliance action.

**COMMUNICATION & ENGAGEMENT**

The Town of Bassendean Development Bonds Policy is an administrative policy only that is designed to complement Local Planning Scheme No. 10.

As the policy is not being adopted as a Local Planning Policy under the Scheme, the policy is not required to be advertised.

### STRATEGIC IMPLICATIONS

OBJECTIVES: Enhance the Town's appearance.

STRATEGIES: Improve amenity and the public realm.

### COMMENT

Any new grouped or multiple dwelling development or commercial/industrial development currently requires payment of a development bond enforced through a condition of development approval. For commercial/industrial developments a bond of \$2,000 or 2% of the development value (whichever is the greater) is imposed. For new grouped or multiple dwelling developments, a bond of \$1,000 or \$500 per dwelling unit (whichever is the greater) is imposed. A copy of the current Development Bonds Policy forms an attachment to this report.

Once a development, where a development bond has been imposed, has been completed, the applicant will apply to the Town for refund of the development bond. A Town Officer will then inspect the site to ensure that all conditions of development approval have been satisfactorily addressed and that the development has been constructed in accordance with its approved plans. It is becoming increasingly apparent that development is not being completed to the Town's satisfaction and when the applicant is requested to make further modifications; such requests are being ignored. It is suspected that this is largely in part because the cost to modify the development is greater than the development bond itself.

It is therefore important that this development bond figure be brought into line with 2018 standards. The Reserve Bank of Australia provides that a representative 'basket of goods and services' that would have cost \$500 in 1990 would equate to a 'basket of goods and services' worth \$949,09 in 2016 at an average inflation rate of 2.5%. Inflation values for 2017 onwards were not available at the time of writing this report. It is appropriate that the development bond amount be increased to be representative of building costs in 2018.

Requests for refund of the development bond provide the opportunity for the Town to inspect developments to ensure compliance.

Non-compliance with the conditions of development approval will often trigger the need for resource intensive compliance action. In order to avoid these unnecessary expenses, it is proposed that the Development Bond Policy be amended to increase the bond amount to \$2,000 or \$1,000 per dwelling unit (whichever is the greater).

It is also proposed that the Development Bond Policy be expanded to include grouped dwelling additions to existing single houses that form grouped dwelling sites as the incorporation of an existing house into a grouped dwelling environment requires the appearance of existing dwellings to be upgraded as well as considerations to vehicle access, car parking, provision of a store and fencing. Minor grammatical and accuracy changes are also proposed. A copy of the amended Development Bonds Policy forms an attachment to this report with the proposed changes highlighted in yellow. The proposed changes are expected to reduce unnecessary expenses from compliance action whilst ensuring that a higher standard of development is achieved when able to be viewed from the public realm. The amendment will also ensure that the provisions within the operative Town of Bassendean Local Planning Scheme No. 10 are complied with and that all conditions of development approval are satisfactorily carried out prior to occupation of a building.

### STATUTORY REQUIREMENTS

The Development Bonds Policy complements Local Planning Scheme No. 10. The Scheme contains the following clauses relating to occupation of buildings:

Clause 5.1 states that any development of land is to comply with the provisions of the Scheme.

Clause 5.7.2.1 states a person shall not develop or use land to erect, use or adapt any building for use the purpose indicated in Table 1 of the Scheme, unless car parking spaces of the number specified in Table 2 are provided and such spaces are constructed, marked and maintained in accordance with the provisions of the Scheme.

Clause 5.7.2.3 states classification certificates for any buildings or structures requiring such certificates shall be issued only after all parking and loading facilities have been completed in accordance with the Scheme.

Clause 11.4 states a person must not:

- (a) contravene or fail to comply with the provisions of the Scheme;
- (b) use any land or commence or continue to carry out any development within the Scheme area:
  - (i) otherwise than in accordance with the Scheme;
  - (ii) unless all approvals required by the Scheme have been granted and issued;
  - (iii) otherwise than in accordance with any conditions imposed upon the grant and the issue of any approval required by the Scheme; and
  - (iv) otherwise than in accordance with any standards laid down and any requirements prescribed by the Scheme or determined by the local government under the Scheme with respect to that building or that use.

Section 218 of the Planning and Development Act 2005 provides that a person who fails to comply with the provisions of a Local Planning Scheme is guilty of an offence and is liable for a maximum penalty of up to \$200,000 and a daily penalty of \$25,000 for each day during which the offence continues.

#### FINANCIAL CONSIDERATIONS

There are no financial implications for the Town of Bassendean or its constituents. It is anticipated that adopting the amended policy will reduce the number of compliance matters and associated costs incurred for the Town. It should also be noted that application of the new policy cannot commence until the 2018/2019 financial year once the Town's 2018-2019 Fees and Charges Schedule has been adopted. It is anticipated that adopting the modified policy

#### OFFICER RECOMMENDATION — ITEM 10.2

That Council adopts the Town of Bassendean Development Bonds Policy – Compliance with Conditions of Development Approval' Version 3, dated January 2018 with commencement of the policy to start in the 2018/2019 financial year.

**Voting requirements: Simple Majority**

**10.3 Third Party Appeal Rights in Planning – WALGA Consultation with Members (Ref: DABC/LEGLTN/1 Christian Buttle, Senior Planning Officer)**

**APPLICATION**

To give consideration to the Western Australian Local Government Association's (WALGA) report on outcomes of consultation with members on Third Party Appeal Rights in Planning.

**ATTACHMENTS**

**Attachment No. 2:**

- (Undated) WALGA Third Party Appeal Rights in Planning Discussion Paper (considered by Council at its Ordinary Meeting held 27 June 2017);
- Officer Report titled "Third Party Appeal Rights in Planning – WALGA Discussion Paper) considered by Council at its meeting held 27 June 2017;
- Extract of Minutes from June 2017 Council Meeting; and
- Letter from WALGA dated 1 December 2017 titled "Consultation with Members – Third Party Appeal Rights in Planning" and accompanying report titled "Outcomes of Consultation – Third Party Appeal Rights in Planning".

**BACKGROUND**

At its December 2016 meeting, WALGA State Council requested a review of WALGA's policy position on Third Party Appeal Rights relating to planning decisions.

The review was requested as it was noted that the legislative environment relating to planning had changed since WALGA had established a policy position on this matter in 2008. Noting this changed legislative environment, it was determined that a review was warranted.

WALGA sought comment from member Council's and an Officer report was considered by the Council of the Town of Bassendean at its Ordinary Meeting held 27 June 2017.

Feedback from local government was subsequently considered by the WALGA State Council at its September 2017 meeting, where it was resolved that:

- “1. State Council notes that there is increased support for the introduction of some form of Third Party Appeal rights.*
- 2. WALGA undertakes further consultation with members on Third Party Appeal Rights, including Elected Member workshops, discuss the various concerns and suggestions raised in response to the discussion paper, the form and scope of any such appeal right should include the appropriate jurisdiction including JDAPS, SAT and WAPC to determine a preferred model.*
- 3. The findings to be distributed for comment and the Item then be reconsidered by State Council.*
- 4. WALGA continue to advocate that an independent review of decision making within the WA planning system is required, including the roles and responsibilities of State and Local Government and other decision making agencies, Development Assessment Panels and the State Administrative Tribunal appeal process.”*

The submissions received by local government were collated into four options and discussed at two workshops and a webinar held in November 2017.

Based on the outcomes of the workshops, WALGA is now asking each local government to consider the following as the preferred model for Third Party Appeal Rights in Planning in Western Australia:

That the Town of Bassendean:

**Support the introduction of Third Party Appeal Rights for decisions made by Development Assessment Panels.**

#### COMMUNICATION & ENGAGEMENT

As a result of submissions made by local government in 2017, WALGA collated submissions into four broad areas, being:

- 1. Support the introduction of Third Party Appeal Rights for decisions made by Development Assessment Panels (DAP) only:**

Under this system, appeals would be limited to larger proposals which fall within the category of application to be determined by a DAP.



**2. Support the introduction of Third Party Appeal Rights for decisions where discretion has been exercised in making a decision under the R-Codes, a Local Planning Policy or a Local Planning Scheme:**

Under this system, appeals would extend to almost every decision made under the planning system as almost every planning determination made involves the exercise of discretion.

**3. Support the introduction of Third Party Appeals against development approvals:**

Under this system, third party appeals would exist in relation to any development approval made by any responsible authority (Local Government, a DAP, the Metropolitan Redevelopment Authority and the Western Australian Planning Commission).

**4. Support the introduction of Third Party Appeal Rights against development approvals and/or the conditions or absence of conditions of approval:**

Under this system, third party appeal rights would cover most development approvals and the imposition of, or lack of, conditions of approval.

**5. Other**

A range of other options were also provided which included alternate suggestions to those identified above, a combination of arrangements identified above or maintaining the current position of no Third Party Appeal Rights.

In any of the models identified, WALGA noted that it would be necessary to ensure that controls were introduced to ensure that:

- Appeals were made only on valid planning grounds and not for commercial or vexatious purposes;
- Appeal rights were limited only to those parties who had made a submission on a proposal during its advertising period; and
- A short window of time (for example 14 days) be applied to the right to lodge an appeal.

Detailed discussion regarding the matters discussed at the workshop is included within the correspondence provided by WALGA in December 2017, which has been provided as an attachment to this report.

## STRATEGIC IMPLICATIONS

While the subject matter of this report does not align directly with any of the Objectives contained within the Town's Strategic Community Plan, it sits broadly under the Leadership and Governance heading.

## COMMENT

Since WALGA last considered its position in relation to this matter in 2008, the State Government has introduced a number of changes to the planning framework which have directly affected (and weakened) the decision making powers of Local Government as identified in the discussion paper attached to the June 2017 Officer report. These changes include, amongst others:

- The introduction of Development Assessment Panels (DAPs). Opt in capacity for DAP applications has already been adjusted down (now \$2M opt in) since the system was first established;
- The introduction of 'Deemed Provisions' for local planning schemes which had the effect of automatically amending all local authority town planning schemes; and
- Changes to section 76 of the Planning and Development Act 2005 to give the Minister for Planning the power to order a Local Government to prepare or adopt an amendment to a local planning scheme

The discussion paper attached to the June 2017 report provides detailed commentary on the matter of third party appeal rights, including:

- A comparison with arrangements in place in other states and territories;
- Arguments 'for' and 'against'; and
- Other issues of relevance.

## STATUTORY REQUIREMENTS

The legislative framework which applies to the planning system within WA does not (with the exception of the limited capacity described below) provide for third party appeal rights within the planning system.

A third party may currently become involved in a matter which is the subject of an application for review to the State Administrative Tribunal in the following capacity:

- Being called as a witness;
- Making a submission pursuant to the provisions contained within section 242 of the Planning and Development Act;
- Intervening under section 37(s) of the State Administrative Tribunal (SAT) Act 2004; and
- Possible participation in mediation of an application for review before the SAT.

If WALGA's preferred model were adopted, third party appeal rights would be extended to also include determinations made by Development Assessment Panels.

### FINANCIAL CONSIDERATIONS

While there are no immediate financial considerations associated with this matter, the introduction of third party appeal rights has the potential to increase the number of appeals within the planning system generally. This has the potential to:

- Add additional cost associated with the development which is the subject of a third party appeal; and
- Impose an additional cost burden to each local government.

On average over the last 6 years the Town has had involvement with one Joint Development Assessment Panel (JDAP) application approximately every 6 months, so the likelihood of cost implications impacting the Town are low, noting that:

- The Town has historically had involvement in a relatively low number of JDAP applications (especially compared to some other Council's);
- JDAP determinations have generally aligned with recommendations contained within the Responsible Authority Report (RAR), and in the main (there have been exceptions) both the Town's administration and Council have been aligned in their recommendations made to the JDAP; and
- JDAP applications (to date at least) have not generally been contentious in nature within the community.

JDAP applications that the Town has had involvement with since 2012 include applications for the following:

- Hawaiian Bassendean Shopping Centre Extensions (along with consideration of two amended proposals subsequent to the original approval);
- Mixed Development at No. 85 Old Perth Road;

- Mixed Development at Nos. 7-11 Parker Street / 2-4 Wilson Street (along with consideration of an amended proposal subsequent to the original approval (Note: This approval has not yet been acted upon);
- Multiple Dwellings at Nos. 72-74 Railway Parade (along with consideration of an amended proposal subsequent to the original approval (Note: This approval has not yet been acted upon);
- Multiple Dwellings at No. 8 Walter Road East (along with consideration of an amended proposal that has been scheduled for a JDAP meeting on 25 Jan 2018);
- Convenience Store (Petrol Station) at No. 300 Collier Road (along with consideration of an amended proposal subsequent to the original approval); and
- Convenience Store (Petrol Station) at No. 335 Collier Rd (Note: This approval has not yet been acted upon).

The Town is also anticipating that an application will be received shortly for redevelopment of the former car yard site at Nos. 68-70 Old Perth Road. This proposal will be a mandatory DAP application.

### Conclusion

Although a range of differing opinions have been put forward in relation to the matter of Third Party Appeal Rights, WALGA has established its preferred position and is seeking a recommendation on that single position only, being:

#### **Support the introduction of Third Party Appeal Rights for decisions made by Development Assessment Panels.**

If this position were to gain support at a State level and Third Party Appeal Rights were introduced into the planning system for DAP applications, it is likely that such a change would be subject to subsequent review to gauge its effectiveness at a later date. It is possible that the extent of any such appeal rights would be looked at again at such time.

Noting that the position advocated by WALGA aligns with a component of appeal rights for which the Town has previously indicated its support, it is recommended that Council provide WALGA with support in relation to its preferred position.

**OFFICER RECOMMENDATION — ITEM 10.3**

That in response to the Western Australian Local Government Association's letter dated 1 December 2017, Council advises that it supports its recommended position to support, as the preferred model, the introduction of Third Party Appeal Rights for decisions made by Development Assessment Panels.

**Voting requirements: Simple Majority**

**10.4 Report on Review of Western Australian Planning Commission Development Control Policy 2.2 – Residential Subdivision (Ref: Christian Buttle, Senior Planning Officer)**

APPLICATION

To provide Councillor's with an information report relating to the Western Australian Planning Commission's (WAPC) recent adoption of an amended Development Control (DC) Policy 2.2 – Residential Subdivision and to note current and potential future implications for the Town relating to the WAPC's adoption of this policy.

ATTACHMENTS

**Attachment No. 3:**

WAPC DC Policy 2.2 – Residential Subdivision - October 2017

BACKGROUND

In October 2017, the WAPC adopted a revised version of DC Policy 2.2 – Residential Subdivision.

All of the residential subdivision that occurs within the Town is assessed against the provisions of this policy in conjunction with land area requirements specified by the Residential Design Codes of Western Australia (R-Codes).

The WAPC's web site gives the following summary of the updated policy:

*"This policy sets out the WAPC's requirements for landowners intending to subdivide residential land. It assists to create a diversity of lot and housing types throughout the State.*

*The policy allows consideration of variations to average lot size greater than five per cent for corner lots only.*

*The policy is not to be used to circumvent the R-Coding of land to facilitate subdivision and increased density not intended under local planning frameworks.*

*Nested subdivision proposals involve the inclusion of two or more original/parent lots and/or minor boundary adjustments between them to achieve the average lot size requirement. Staged or successive subdivision proposals involve the creation of one minimum sized lot under separate subdivision applications in order to obtain increased lot yield.*

*Nested and staged/successive subdivision proposals are not generally supported.*

*The WAPC may require lot reconfiguration to facilitate retention of significant trees and mature vegetation.”*

### COMMUNICATION & ENGAGEMENT

In reviewing this Policy the WAPC undertook a public advertising process. The Town did not make a submission during the advertising period.

### STRATEGIC IMPLICATIONS

Council should have a clear understanding of the existence and operation of DC Policy 2.2 in the context of its future strategic planning considerations, particularly linked to the review of the current Local Planning Strategy.

### COMMENT

Generally, the base density code of residential properties within the Town of Bassendean (excluding river front and flood prone land) is R17.5 (parts of Eden Hill) and R20 (most of Ashfield along with parts of Bassendean north of the railway line and the majority of Bassendean south of Guildford Road).

At an R17.5 density code, an overall land area of 1,142 sq.metres is required to allow the development of two dwellings or to subdivide one lot into two (i.e. one dwelling for every 571 sq.metres of land area). Up to October 2017, WAPC policy also allowed a 5% variation beneath the land area requirements identified above in some cases.

At an R20 density code, an overall land area of 900 sq.metres is required to allow the development of two dwellings or to subdivide one lot into two (i.e. one dwelling for every 450 sq.metres of land area). Up to October 2017, WAPC policy also allowed a 5% variation beneath the land area requirements identified above in some cases.

The Town's operative Local Planning Scheme No. 10 (LPS10) contains a provision allowing R17.5 and R20 coded corner blocks to be assessed against R25 density code requirements. At an R25 density code, an overall land area of 700 sq.metres is required to allow the development of two dwellings or to subdivide one lot into two (i.e. one dwelling for every 350 sq.metres of land area). Up to October 2017, WAPC policy also

allowed a 5% variation beneath the land area requirements identified above in some cases.

Under the currently adopted Local Planning Strategy, it is contemplated that the base residential density code within the Town will be increased from R17.5 and R20 to R25. Such a change would have the impact of making all properties within the Town that are 700 sq.metres or larger (and currently coded R17.5 or R20) duplex (two dwelling) size sites. Furthermore, noting the willingness of the WAPC to grant a 5% variation to the figures quoted above, any property of 665 sq.metres or larger would realistically have the potential to be subdivided into two lots.

**Recommendation 1:**

- 1. Council note that at an R25 density code, a 700 square metre lot area allows for the development of two dwellings.**

**Recommendation 2:**

- 2. Council note that at an R25 density code, a 665 sq.metre lot can be subdivided into two lots if the WAPC grants a 5% variation to average lot size requirements as accommodated under their DC Policy 2.2.**

The possibility for potentially 'unanticipated' outcomes associated with the introduction of an R25 base code within the Town in certain areas should be noted and understood by Council.

The area of Bassendean within the vicinity of the Bassendean Primary School is a good example. Many properties in this location are zoned Residential with an R20 density code and have a lot area of 1,012 sq.metres (i.e. the majority of properties on the eastern side of Wilson Street and properties in James Street, Hamilton Street, Whitfield Street, West Road and surrounding streets are a representative examples).

At an R25 density code, the R-Codes allow one dwelling for every 350 sq.metres of lot area. As such, the notional land area required to develop 3 dwellings (or create three lots) is 1,050 sq.metres. However, through exercising a 5% variation, the required land area reduces to 997.5 sq.metres ( $1,050 \times 0.95 = 997.5$  sq.metres). This would mean that all of the 'quarter acre' lots within the area identified above would have their development potential increased from two dwellings to three dwellings via the subdivision process and the WAPC exercising a 5% variation if an R25 density code was to come into force in this area.



Officers are aware that the same zoning and land area arrangements exist within the City of Bayswater and that it is common practice for the WAPC to grant a 5% land area variation, resulting in 3 lot subdivisions being approved in areas which are coded R25 with a prevailing lot size of 1012 sq.metres.

On face value, the adjustment to the prevailing density code from R20 to R25 in this area is a minor adjustment, but the resultant impact on development potential (potentially 3 dwellings compared to two dwellings for the prevailing lot size of 1012 sq.metres), and associated change to the character of development within the locality is quite significant.

**Recommendation 3:**

**3. Council note that if an R25 density code is implemented as the base residential density code within the Town, that via the subdivision process and the WAPC granting a 5% variation, a standard mid-block (i.e. non corner) quarter acre (1012 sq.metre) lot has the potential to be subdivided into 3 lots.**

In addition to introducing a base R25 density code within the Town, the current Local Planning Strategy also contemplates a continuation of a 'bonus' density code being applied to corner lots, and an R30 density code is contemplated in this respect.

At an R30 density code, an overall land area of 600 sq.metres is notionally required to allow the development of two dwellings on a lot or to subdivide one lot into two (i.e. one dwelling for every 300 sq.metres of land area). Up to October 2017, WAPC policy also allowed a 5% variation beneath the land area requirements identified above (i.e. down to 570 sq.metres) in some cases.

However, the recently amended DC Policy 2.2 introduces variation provisions which extend beyond the 5% that the Commission has traditionally limited itself to. DC Policy 2.2 now contemplates variations exceeding 5% in the cases identified below:

Variations to average lot size greater than five per cent criteria

By far the greatest change in the newly adopted DC Policy 2.2 compared to the version that it supersedes is the stated position of the WAPC to allow lot area variations **in excess of 5%** where the following requirements are met:

- *“A single residential coding of R10 to R35 applies to the land.*

- *The site is a corner lot with frontage to two different street names or any other lot with frontage to more than one dedicated street (excluding a primary (red), other regional (blue) or any other major road, including state and federal highways, with access restrictions). Corner lots with frontage to the same street name are not generally supported, however will be considered on merit against this policy, recommendation of local government and presented to the WAPC for determination.*
- *All proposed lots comply with the minimum lot size and frontage requirements specified in Table 1 of the R-Codes.*
- *Crossovers and driveways to proposed lots are provided in accordance with Australian Standard (AS) 2890 and the R-Codes.”*

The minimum lot size specified at an R30 density code is 260 sq.metres.

Noting the above, a corner lot of as little as 520 sq.metres in area that is currently assigned an R17.5 or R20 density code under LPS10 would have the potential to be subdivided into two separate lots if the current Local Planning Strategy is implemented as currently proposed if:

- The base code of all lots within the Town was increased from R17.5 and R20 to R25 as is currently contemplated;
- In addition to adjusting the base code of all residential lots to R25, a ‘bonus’ entitlement of R30 was applied to corner lots as is also contemplated within the current Local Planning Strategy; and
- An application was made to the WAPC seek a variation to lot area requirements in excess of 5% in accordance with DC Policy 2.2 as now operative.

Again, while the change in density code might appear minor in nature (taking a corner lot from an R25 density code to an R30 density code), the actual implications ‘on the ground’ from such an adjustment could be quite significant noting that a lot of as little as 520 square metres would now be accepted for subdivision under WAPC policy.

**Recommendation 4:**

- 4. Council note that if an R30 density code is implemented as the base residential density code for corner lots throughout the Town, that under the provisions of recently amended DC Policy 2.2, such lots will have the capacity to be subdivided into two where they contain a land area of at least 520 sq.metres (i.e. minimum lot area of 260 sq.metres for each lot proposed).**

The policy also has implications in relation to existing arrangements under the operative Local Planning Scheme No.10.

As identified earlier within this report, in localities that are assigned a density code of R17.5, the R-Codes would ordinarily allow one dwelling per 571 sq.metres of land area (i.e. min. 1,142 sq.metres to allow for the 2 dwellings). At an R20 density code the requirements are one dwelling per 450 sq.metres of land area (i.e. min. 900 sq.metres to allow for 2 dwellings).

Corner blocks in these areas are permitted to be developed or subdivided to an R25 density code by virtue of clause 5.3.1.3 of LPS10. At an R25 density code the required average land area per dwelling is 350 sq.metres, while the minimum land area per dwelling is 300 sq.metres.

As such, under the provisions of the amended DC Policy 2.2, corner blocks in R17.5 and R20 coded areas now have the potential to be subdivided in the following manner:

- 600 sq.metres – minimum area required for subdivision into two lots;
- 900 sq.metres – minimum area required for subdivision into three lots and so on.

**Recommendation 5:**

- 5. Council note that in localities coded R17.5 and R20 under the currently operative LPS10, under the provisions of the amended DC Policy 2.2 that corner lots have the potential to be subdivided at a rate of one lot for every 300 sq.metres of land area (i.e. minimum original lot area of 600 sq.metres has the potential to accommodate subdivision to create two lots).**

## Conclusion

In moving ahead with a review of the Town's current Local Planning Strategy, Councillors (and the community) should be aware of development outcomes that could result from designated density codes, particularly in the context of any state government policies that come into play as part of the subdivision or development process.

Using the area around the Bassendean Primary School that was referenced earlier within this report as a case in point:

- If there is a community preference for the development of these generally 1,012 sq.metre lots to two dwellings, then the R25 density code that is currently contemplated within the current Local Planning Strategy is not the most appropriate density code to assign to this land, and it would be more appropriate to retain the existing R20 density code.
- Conversely, if there is a clear desire to allow these properties to be redeveloped with three dwellings per lot, then the R25 density code (or indeed perhaps even more appropriately an R30 density code) would be the appropriate density code to assign to such land.

It would be useful to undertake similar exercises throughout the Town as part of the current Local Planning Strategy review process.

The Director Strategic Planning has advised that as part of the Local Planning Strategy review process, it is intended to explore with Councillors, at a proposed Councillors' forum/workshop next month (February 2018), suggested density coding changes, land use/zoning changes, and potential subsequent development outcomes (including the potential outcomes mentioned in this report).

## STATUTORY REQUIREMENTS

DC Policy 2.2 is a Development Control policy prepared under Section 14(b)(ii) of the Planning and Development Act 2005.

## FINANCIAL CONSIDERATIONS

There are no financial implications associated with this matter.

**OFFICER RECOMMENDATION — ITEM 10.4**

That Council receives the Officer report, notes the recommendations that are identified within the report and has regard to the information contained within the report when further reviewing the current Local Planning Strategy.

**Voting requirements: Simple Majority**

**10.5 Whitfield Street and Hamilton Street On-Street Parking (Ref: LAWE/REPRNG/3 – Trent Macpherson, Engineering Technical Coordinator, Nicole Baxter, Engineering Officer)**

APPLICATION

The purpose of this report is to provide Council with feedback from residents regarding the On-Street Parking Bays in Whitfield Street and Hamilton Street between Old Perth Road and Palmerston Street.

ATTACHMENTS

**Attachment No. 4**

- Line marking drawing for Hamilton Street and Whitfield Street on-street parking.
- June 2016, Transcore Parking Inventory summary for the Bassendean Activity Centre Precinct.

BACKGROUND

In April 2016, Ranger Services presented a report to Council regarding parking within the Town Centre. The report recommended the placing of parking bays in Whitfield Street and Hamilton Street ,between Old Perth Road and Palmerston Street.

In April 2016, Council approved (OCM-10/04/16):

2. *Approves the installation of line marking in Hamilton Street and Whitfield Street, between Old Perth Road and Palmerston Street, to identify appropriate parking spaces;*

In line with Australian Standards (AS 2890.5 1993 Parking Facilities - On-street Parking) Asset Services maximised the number of parking bays possible for these two streets.

In June 2016, Transcore prepared a Parking Audit Report for the Bassendean Activity Centre. This parking audit included Whitfield Street and Hamilton Street and considered the following:

- Inventory of Parking Facilities: the parking inventory survey provides information on the current condition of public parking facilities such as the location, number of parking spaces, time limits and ownership.
- Parking Utilisation Survey demonstrates the number of vehicles parked in a parking lot during a specific period of time.

- Parking Duration is established by a number plate survey and indicates the duration of the stay for each vehicle in a parking bay.

In November 2017, Council (OCM – 12/11/17) resolved to approve stage two of the Whitfield Street, Bassendean Bicycle Boulevard project and commenced the community consultation period.

Since the installation of the parking bays, Ranger Servicers have received a number of complaints from residents in regards to the Whitfield Street and Hamilton Street on-street parking bays, stating that the bays installed were too close to residents' crossovers, making it difficult and dangerous to enter and exit their driveways, especially when large vehicles are parked in the parking bays.

Furthermore, the residents explain, the problem is exacerbated when vehicles are parked on the opposite side of the road, which further restrict the vehicle turning movements and reduces the road lane width.

### COMMUNICATION & ENGAGEMENT

Council (OCM-10/04/16) approved the installation of line marking in Whitfield Street and Hamilton Street, between Old Perth Road and Palmerston Street *as per attachment*.

In mid-2016, Ranger Services completed a doorknock of the area, to notify residents of these streets, of the proposed on-street parking bays.

In regards to Council (OCM – 12/11/17) resolution to commence community consultation for the Whitfield Street Bicycle Boulevard, letters are about to be distributed to the adjacent Whitfield Street property owners and side streets, with a workshop proposed to occur towards the end of February 2018. The feedback received from the Whitfield Street, Bassendean Bicycle Boulevard workshop will be analysed and a report and draft concept plan presented to the Committee/ Council for consideration.

On Tuesday 23 January 2018, Councillors are scheduled to attend an on-site inspection of Whitfield Street and Hamilton Street parking bays before the Councillors' Briefing Session.

### STRATEGIC IMPLICATIONS

The Bassendean Strategic Community Plan 2017-2027 states under Built Environment:

<b>Objectives</b> <i>What we need to achieve</i>	<b>Strategies</b> <i>How we're going to do it</i>	<b>Measures of Success</b> <i>How we will be judged</i>
3.2 Enhance connectivity between places and people	3.2.1 Connect the Town through a safe and inviting walking and cycling network.	Community / Stakeholder Satisfaction Survey (roads, footpaths and cycle paths)  Community/ Stakeholder Satisfaction Survey (access to public transport both access to Town and within.)
	3.2.2 Advocate for improved and innovative transport access and solutions.	
	3.2.3 Enhance the liveability of local neighbourhoods.	
	3.2.4 Enhance road safety through design	

**COMMENT**

Asset Services Officers have attended the site, measured the parking bays and can confirm that the bays have been installed in line with Australian Standards (AS 2890.5 1993 Parking facilities - on-street parking).

The main concern from residents was the offset from the parking bay to the crossover.

Within these two streets, the offset from an existing crossover and the on-street parking bay line marking varies from 0.0m (being on the edge of the existing crossover wing) to 2.0m (offset from the crossover wing).

The Town’s Parking and Parking Facilities Local Law 2010 states that the clearance from crossovers/driveways - section 3.5(2) (c) –

*“3.5 (2) Subject to any law relating to intersections with traffic control signals a person shall not park a vehicle so that any portion of the vehicle is:*

*(c) Obstructing a right of way, private drive or carriageway or so close as to deny a vehicle reasonable access to or egress from the right of way, private drive or carriageway.”*

At no point does the parking bays intrude into a crossover but on occasions, larger vehicles parked within the parking bay, have intruded into the crossover.

Asset and Rangers Services have considered the residents’ concerns with the parking bay installation (installed too close to their crossover, making it difficult and dangerous to enter and exit their driveway), and are recommending that “No Parking” restriction signs be placed on the opposite side of the road to the on-street parking bays.



This being “No Parking” in Hamilton Street on the eastern side of the road and in Whitfield Street “No Parking” on the western side of the road from Old Perth Road to Palmerston Street.

The attachment includes a 2016 inventory of the public parking within the Activity Centre Precinct

The car parking inventory survey undertaken for the Activity Centre Precinct indicated that there are about 1,100 public bays/ spaces (on-street and off-street) within the Activity Centre Precinct of which about 30% (330 bays) are on-street and about 70% (770 bays) are off-street.

Any reduction to the number of available parking bays in Whitfield Street and Hamilton Street will most likely impact visitors or family who are seeking to locate a parking bay close to a particular property.

It should also be noted that visitors to the properties on the “No Parking” side of the road may be inconvenienced as they would have to park on the verge or opposite side of the road.

This proposal will require those vehicles to park within the designated on-street parking bays and not restrict the road width. Allowing clearance for turning into and out of driveways.

A number of residents mentioned that when a large vehicle is legally parked next to another in front of their homes, they are not been able to exit her driveway as the vehicle, in their opinion, was too close to the driveway.

Officers can remove some bays to alleviate the residents’ problems of exiting their properties, when a larger vehicle is parked in the bay, but this is estimated to decrease the number of parking bays, likely to be around 5, in the parking area that is well utilised.

Considering that the community workshop for Whitfield Street Bicycle Boulevard is proposed for the end of February 2018, Council may wish to defer a decision on the Whitfield Street and Hamilton Street parking bays issues. This will allow affected residents the opportunity to consider the proposed amended parking arrangements and the proposed Bicycle Boulevard and provide their feedback.

## STATUTORY REQUIREMENTS

Local Government Act 1995  
Parking and Parking Facilities Local Law 2010  
Road Traffic Code 2000

## AS 2890.5 1993 Parking facilities - On-street parking

### FINANCIAL CONSIDERATIONS

If Council resolves to install the “No Parking” signs in Hamilton Street on the eastern side of the road and “No Parking” in Whitfield Street on the western side of the road from Old Perth Road to Palmerston Street, the estimated cost to undertake this work is \$1,000.

If Council resolves to remove some car bays and re-line the parking bays, as per the residents’ expectations, the estimated cost is \$3,000.

These costs can be covered within in the current Operational Budget 2017-18 “Street Signs & Road Marking” WR0004.

### OFFICER RECOMMENDATIONS – ITEM 10.5

That:

1. Council defers the consideration of the Whitfield Street and Hamilton Street parking bays issues until after the Community Workshop for the Whitfield Street Bicycle Boulevard and a concept plan proposal have been endorsed; and
2. After the Whitfield Street Bicycle Boulevard concept plan has been endorsed that a further report be provided in order to consider the Whitfield Street and Hamilton Street parking bay issues.

### OR

That Council:

1. Acknowledges the on-street parking bays were installed as per the Australian Standard dimensions and that any reduction in the number of parking bays will impact the overall number of car parking spaces within residential streets and the Bassendean Activity Centre;
2. Authorises the decrease in the number of parking bays provided and the realignment of lesser parking bays to meet local residents expectations;

3. Approves “No Parking” restrictions on the opposite side to the on-street parking bays. This being “No Parking” in Hamilton Street on the eastern side of the road and in Whitfield Street “No Parking” on the western side of the road, from Old Perth Road to Palmerston Street, and monitor if the access issue is alleviated;
4. Approves allocating an amount of \$1,500 from the 2017-18 Operations Budget, “Street Signs & Road Marking” WR0004, for the installation of the No Parking Restrictions within Hamilton Street on the eastern side of the road and in Whitfield Street “No Parking” on the western side of the road, from Old Perth Road to Palmerston Street; and
5. Approves allocating an amount of \$3,000 from the 2017-18 Operations Budget, “Street Signs & Road Marking” WR0004 for the removal and realignment of lessor parking bays within Whitfield & Hamilton Street from Old Perth Road to Palmerston Street.

**Voting Requirements: - Simple majority**

**10.6 Verge Treatment Policy and Verge Maintenance Policy (Ref: COUP/MAINT/1 – Trent Macpherson (Engineering Technical Coordinator) and Andreea Balica (Engineering Technical Assistant / Compliance Officer))**

APPLICATION

The purpose of this report is to outline the proposed changes to the Verge Treatment and Maintenance Policy.

ATTACHMENTS

**Attachment No. 5**

- Verge Treatment and Maintenance Policy;
- Permissible Verge Treatment Information Sheet;
- Activities on Thoroughfares and Trading in Thoroughfares and Public Place Local Law 2010;
- Proposed new Verge Maintenance Policy – Draft only
- Proposed new Verge Treatment Policy – Draft only

BACKGROUND

In June 2011, the Town of Bassendean, Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2010 came into effect.

This Local Law deals with a wide cross section of activities which may occur within the thoroughfare including verge treatments. In accordance with this Local Law, Council is required to determine via policy the permissible materials that can be installed on a verge.

The Local Law states in part the following:

***2.7 Permissible verge treatments***

- (1) An owner or occupier of land, which abuts on a verge, may on that part of the verge directly in front of her or his land install a permissible verge treatment.*
- (2) The permissible verge treatments are:*
  - (a) the planting and maintenance of a lawn;*
  - (b) the planting and maintenance of a garden provided that:*
    - (i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the*

*thoroughfare or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare;*

- (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;*
  - (iii) it does not include a wall or built structure; and*
  - (iv) it is not of a thorny, poisonous or hazardous nature; or*
- (c) the installation of an acceptable material; or*
- (d) the installation of an acceptable material or other verge treatment in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).*

### **2.8 Only permissible verge treatments to be installed**

- (1) A person shall not install or maintain a verge treatment that is not a permissible verge treatment.*

In December 2012, Council adopted the Verge Treatment and Maintenance Policy with the objectives being to:

- Encourage adjacent owners and occupiers to install and maintain permissible verge treatments that are waterwise, aesthetically pleasing, and that reflect our natural heritage.
- Provide guidelines as an adjunct to the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law for the installation and management of verges in the Town.

In addition, Council adopted a Permissible Verge Treatment Information Sheet to assist for residents understand what can and cannot be undertake onto the verge adjacent their the property.

In June 2017, a Notice of Motion was received from Cr Bridges and Council (OCM – 24/07/17) resolved MOVED Cr Bridges, Seconded Cr McLennan, that the Town of Bassendean provides a report on the Verge Treatment and Maintenance Policy with the aim to enable residents to plant verge gardens, including edible plants, within guidelines that maintain safe pedestrian flow, vehicle sight lines and access to utility infrastructure without the requirement of a formal application.

### COMMUNICATION & ENGAGEMENT

In accordance with Council (OCM – 24/07/17) resolution, in September 2017, the Town's Compliance Officer contacted the Bassendean Verge Transformation Project Group through its co-ordinator to advise the Town is looking at reviewing the Verge Treatment and Maintenance Policy and requested the group to provide an input regarding this matter.

An email response was received in October 2017, as follows:

*"Thanks again for the opportunity to provide comment on the current Verge Treatment and Maintenance Policy .*

*As far as approval processes go, this process is relatively simple and we have found the Town to be efficient in delivery, thank-you for this.*

*We do believe however that the process offers limited value for the time spent as the approvals we have seen do not impart any knowledge that couldn't be taken from review of the Policy and the Dial Before You Dig report. We consider a well worded Policy document and supporting guidance could take the place of the current approval process.*

*Further, we consider that the prescriptive nature of the Policy is in some respects unduly restrictive, inhibiting the enhancement of verges. For example:*

- \* The requirement to have an approval for any new type of plant on the verge is not very practical from a compliance perspective. It is especially not conducive to edible verge gardens as these gardens are seasonal, so residents would need to either apply for approval several times a year or have the foresight to know what they were going to plant for the whole life of the garden.  
It is unclear to the BVTP what the benefit is of restricting planting in this way and conversely, we see that more edible verges in Bassendean is good for enhancing social capital and civic engagement and food security.*

- \* *The City of Bayswater completed a risk assessment on the installation of raised garden beds determining that they could be allowed with a few restrictions as outlined in the City of Bayswater Street Verge Policy and Greening Guide. People want raised garden beds for edible gardens due to the perceived risk of soil contamination.*
- \* *Although street trees are covered in another Town of Bassendean policy, we would like to note that we would like the opportunity to plant edible trees as part of verge gardens. This has been incorporated into the City of Bayswater Street Verge Policy.*
- \* *Regarding the current height restriction on plants of 750mm, perhaps we could just stipulate that sight lines be maintained.*

*As a starting point, the BVTP would like to see the Town of Bassendean Policy and guidelines updated to be in line with the City of Bayswater Policy and guidelines. The City of Bayswater has recently revised and updated their Policy in consultation with the Local Government Insurance Scheme (LGIS) allowing installation of garden beds and a wide variety of plantings including fruit trees and other edibles without the need for City approval. The City of Bayswater's garden bed risk assessment policy and greening guide are linked below for your reference.*

### STATUTORY REQUIREMENTS

Local Government Act 1995.  
 Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2010.

### STRATEGIC IMPLICATIONS

The Strategic Community Plan 2017-2027, contains the following under the heading of:

#### **Social:**

<b>Objectives</b> <i>What we need to achieve</i>	<b>Strategies</b> <i>How we're going to do it</i>	<b>Measure of Success</b> <i>How we will be judged</i>
1.3 Plan for a healthy and safe community	1.3.1 Facilitate safer neighbourhood environments	Community / Stakeholder Satisfaction Survey (Safety, Health and Well-being)

**Natural Environment:**

<b>Objectives</b> <i>What we need to achieve</i>	<b>Strategies</b> <i>How we're going to do it</i>	<b>Measure of Success</b> <i>How we will be judged</i>
2.3 Ensure the Town's open space is attractive and inviting.	2.3.1 Enhance and develop open spaces and natural areas to facilitate community use and connection.	<p>Community / Stakeholder Satisfaction Survey (Open Space and use of Open Space)</p> <p>Increase in Public Open Space Tree Canopy Area monitoring (Private and Public realms)</p> <p>Water Quality (entering the Swan River analysed in accordance with the Australian Government National Health and Medical Research Council Guidelines)</p>

**Built Environment:**

<b>Objectives</b> <i>What we need to achieve</i>	<b>Strategies</b> <i>How we're going to do it</i>	<b>Measure of Success</b> <i>How we will be judged</i>
3.3 Enhance the Town's appearance	3.3.1 Improve amenity and the public realm	Community / Stakeholder Satisfaction Survey (heritage, amenity and appearance)
	3.3.2 Strengthen and promote Bassendean's unique character and heritage	
	3.3.3 Implement design policies and provisions of buildings and places	

**COMMENT**

In regards to the Notice of Motion seeking a report to remove the requirement of a formal application to be submitted, as explained above, the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2010 states in Clause 2.7 Permissible verge treatments, that, "*an owner or occupier of land, which abuts on a verge, may on that part of the verge directly in front of her or his land install a permissible verge treatment.*"

Council has previously approved a Permissible Verge Treatments Information Sheet, which is promoted and available to assist residents understand what the can and cannot be undertake on the verge adjacent their the property.



Therefore the local law and Council policy already permits someone to install a permissible verge treatment.

The Permissible Verge Treatments Information Sheet explains for example, that verges should not be fully paved to ensure street trees can be planted and to reduce the urban heat load and provide for rain water penetration. From a public safety perspective Council has resolved for example that materials should not be used that would create a slip or trip hazard such gravel, rocks, retaining walls and from an environmental perspective that artificial grass is not permitted on the verge due to the urban heat load increases.

In regards to underground services that are located in every verge, the information sheet requires that residents obtain dial before-you-dig information. The reason for including this information is because anyone damaging an underground service is responsible for the repair or reinstating damaged assets. Where damage occurs and negligence appears to be a contributing factor the State Government Utility Agency will commence proceedings against individuals and/or companies to recover costs.

In accordance with the local law, it is not a compulsory for an verge application to be submitted, but it is a requirement that the landscaping uses acceptable materials and is compliant to the Permissible Verge Treatments. Therefore, as a service to residents, the Town's Engineering Technical Assistant/Compliance Officer currently receives verge applications and the Town provides a free review service within 5-10 days.

This upfront assessment service was made available to help residents and developers undertake compliant landscaping works so that they do not expend their funds or time to install a verge treatment, only to be advised after landscaping, that the verge treatment requires modification in order to comply with the Local Law and the Permissible Verge Treatment requirements.

In the past Rangers, Asset Services, Elected Members and neighbours have reported hazards, fully paved verges etc and when this occurs, the Town will initially liaise with the property owner adjacent to the verge landscaping and follow up with a notice requiring compliance with the local law.

Recently, the City of Bayswater changed their verge treatments policy and guidelines allowing residents to install “deem-to-comply” verge treatments without a formal application being submitted and therefore residents and developers are expected to self-regulate based on the criteria provided.

Based on feedback received from the Bassendean Verge Transformation Project coordinator, the draft Verge Treatment Policy and guidelines have been reviewed to a line where deemed appropriate with the City of Bayswater Policy and guidelines

For example, the proposed new Verge Treatment Policy (Appendix 1 – Pre-approved Plant List) was amended to include edible plants and it is recommended in accordance with the Local Law that the Permissible Verge Treatment guidelines continue to ensure that pedestrian safety and the urban heat load is managed within the public space.

Attached to this report is the current Verge Treatment and Maintenance policy. To improve this policy, it is recommended to divide the current policy in two different policies, being:

- Verge Maintenance Policy (see attachment).
- Verge Treatment Policy – Appendix 1 Pre-approved Plant Species & Appendix 2 Verge Treatment Application Form, Permissible Verge Treatment Guidelines (see attachment).

As explained above, on occasions some residents/developers install non-compliant verge treatments as they are not aware of the local law and Council’s Permissible Verge Treatment requirements.

The current free application service assists residents/developers to ensure their funds or resources used to landscape the verge are compliant with the Local Law and Councils Permissible Verge Treatment requirements. It is not compulsory for an application to be submitted, but it is a requirement that the landscaping is compliant.

Council may wish to remove this free service, and if so, Appendix 2 can simply to be deleted from the attached draft Verge Treatment Policy, which has been provided for Council consideration.

### FINANCIAL CONSIDERATIONS

There are no financial implications associated with this report.

### OFFICER RECOMMENDATION – ITEM 10.6

That Council refers the amended draft Verge Maintenance Policy and the amended draft Verge Treatment Policy, attached to the Ordinary Council Agenda of 30 January 2018, to the Town Assets Committee to be held on 6 February 2018, for consideration.

**Voting Requirement – Simple majority**

**10.7 State Football (Soccer) Centre – Town of Bassendean  
Position on Ashfield Reserve as a Potential Site (Ref:  
COUP/USAGE/9 - Salvatore Siciliano, A/Director  
Community Development)**

APPLICATION

The purpose of the report is for Council to consider a request from the Department of Local Government, Sport and Cultural Industries (Sport and Recreation WA) as to the Town's position on Ashfield Reserve being considered as a potential site for the development of the State Football (Soccer) Centre.

ATTACHMENTS

**Attachment No. 6:**

Letter from Sport and Recreation WA.

Letter from the Town of Bassendean to Sport and Recreation WA.

BACKGROUND

The Town was first approached by Sport and Recreation WA (previously known as the Department of Sport and Recreation) in early 2016 to consider Ashfield Reserve as a potential site for the development of a State Football (Soccer) Centre.

In May 2016 (SCM – 1/5/16) Council resolved to support Ashfield Reserve being shortlisted for consideration as a potential site for the State Football (Soccer) Centre with a number of non-negotiable conditions. The resolution reads in full:

Moved Cr Brown, Seconded Cr Lewis, that:

- “1. Council notes the community consultation outcomes, where out of a total of 227 responses received, three in four respondents support the Ashfield Reserve being shortlisted for consideration as a potential site for the State Football (Soccer) Centre;*
- 2. The CEO notifies the Department for Sport and Recreation that Council supports Ashfield Reserve being shortlisted for consideration as a potential site for the State Football (Soccer) Centre; and*
- 3 The following principles are conveyed to the Department for Sport and Recreation as non-negotiable by Council to be factored in the Department's feasibility process:*

- a) *The project cost to be fully met by the State Government;*
- b) *That both Ashfield Sports Club and Bassendean Caledonian Soccer Club be offered tenancy in the new Administration building at an affordable rate;*
- c) *The Fire Brigade Running Track be provided in the facility plan;*
- d) *The District Level Playground be retained on the Reserve;*
- e) *That the project include any costs associated with renovations to other reserves resulting from the project;*
- f) *That the Town retains a management order for Ashfield Reserve including the leasehold site of the State Football (Soccer) Centre;*
- g) *A Lease Agreement over the State Football (Soccer) Centre site be entered into with the Town;*
- h) *Grounds maintenance costs and asset renewal planning be a part of the Lease Agreement negotiations;*
- i) *Public access and fee for use arrangements to the pitches outside the leasehold area to be managed directly by the Town;*
- j) *An Ashfield Reserve Advisory Committee of all user groups on the Reserve including but not limited to Soccer Clubs be established;*
- k) *Capacity to continue to host the Australia Day Celebrations on Ashfield Reserve be retained;*
- l) *Traffic impact assessment, parking and lighting plans be required to the satisfaction of the Town including consideration of public transport and ticketing incentives;*
- m) *A community engagement process to be maintained throughout the project and the preplanning information and plans be released to the public and all further project development be transparent;*
- n) *A commercial advertising signage policy be developed to the satisfaction of the Council;*
- o) *Naming rights to include Council as a key stakeholder and include the word 'Ashfield';*
- p) *The utilisation of fencing and artificial turf be capped;*
- q) *A landscaping plan that contributes to canopy cover and spectator shade to be provided and approved by Council and included as part of the project cost;*
- r) *When required, the creation of alternative spaces for cricket training and matches to be included as a project cost; and*
- s) *The independence of the four impacted sporting bodies involved to be maintained and catered for in the project outcome".*

Whilst the State Government had not allocated any funding to develop the State Football (Soccer) Centre at the time of Council resolving to support Ashfield Reserve as a potential site, as part of the 2017 State Government Elections, the Government of the day announced in January 2017 a pre-election commitment that if re-elected, that the State Football (Soccer) Centre would be developed at Ashfield Reserve. The pre-election commitment announcement was made without any consultation with Council or the community.

Given that the Government of the day was not re-elected, the State Football (Soccer) Centre concept did not proceed.

On 19 December 2017, Sport and Recreation (WA) advised the Town that the department was revisiting the 2016 business case for the State Football (Soccer) Centre in regards to the scope, staging options and business objectives as well as potential locations, and was seeking an update on the current position from each of the Local Government Authorities that were involved in the short listing of potential sites.

### COMMUNICATION & ENGAGEMENT

Since the initial community consultation process undertaken in April/May 2016 to ascertain the position of the community for Ashfield Reserve to be shortlisted as a potential site, the government of the day was not re-elected and therefore the Town has not further engaged with the community regarding the project, other than Councillors/Officers responding to specific requests from community members for information.

### COMMENT

The Mayor responded to Sport and Recreation (WA) on 8 January 2018 outlining that although Council previously endorsed Ashfield Reserve as a potential site, that the current Council may not necessarily hold the same the view, given that the composition of Council had changed since local government elections were held in October 2017 and that the matter would be considered at the January 2018 Ordinary Council Meeting.

Sport and Recreation (WA) advised on 10 January 2018 that the current State Government had not made a commitment to developing a State Football (Soccer) Centre and/or a location for the facility.

Sport and Recreation (WA) emphasised that the current Minister for Sport and Recreation has given direction to the department to develop a new business case for the State Football (Soccer) Centre, including revisiting the scope, staging options, business objectives and potential locations including new sites and the sites identified in the original business case. The business case would precede any financial commitment from the State Government and will inform government in the decision making process as to whether to proceed with the facility or not.

Given that Council had previously resolved to support Ashfield Reserve as a potential site for the development of the State Football (Soccer) Centre (SCM-1/5/16), any change to the current position of Council would require the original resolution to be rescinded and a new motion carried outlining Council's position.

Local Government (Administration) Regulations 1996 – Item 10 (1) c states: *revoking a decision of Council shall be at least 1/3 members of Council and is to be carried by an absolute majority.*

Further to the request from Sport and Recreation (WA) for the Town to outline its current position, Officers have not made a recommendation on a preferred position, noting that an existing Council resolution is in place. However, as previously mentioned, if this resolution no longer reflects the current position of Council, it could be revoked and Council may wish to adopt a new position.

### STRATEGIC IMPLICATIONS

*Objective:* Build a sense of place and belonging.

*Strategy:* Activate neighbourhood spaces to facilitate community gathering

### STATUTORY REQUIREMENTS

Local Government Act 1995 s.5.25(1)(e)

### FINANCIAL CONSIDERATIONS

No financial consideration has been raised at this time.

OFFICER RECOMMENDATION – ITEM 10.7

1. That Council:
  - a) Advises Sport and Recreation (WA) of its position on Ashfield Reserve being shortlisted as a potential site for the development of the State Football (Soccer) Centre; or
2. That Council:
  - a) Revokes it previous decision SCM – 1/5/16, Point 2, which reads:

*“The CEO notifies the Department for Sport and Recreation that Council supports Ashfield Reserve being shortlisted for consideration as a potential site for the State Football (Soccer) Centre”; and*
  - b) Advises Sport and Recreation (WA) of its decision that it does not support Ashfield Reserve as a potential site for State the State Football (Soccer) Centre.

**Voting Requirements:**

**Point 1: Simple Majority**

**Point 2: Absolute Majority**



**10.8 Review of Governance Policies 6.6, 6.8, 6.9 & 6.16 (Ref: GOVR/POLCY/1 - Bob Jarvis, Chief Executive Officer and the Corporate Management Team)**

APPLICATION

Council is request to adopt the revised Leadership and Governance Policies following a workshop held on the 21 November 2017.

It should be noted that Policy 6.7 – Electronic Recording of Council Meetings, is subject to a separate report in the agenda.

ATTACHMENT

**Attachment No. 7**

Amended Policies (with track Changes)

- Policy 6.6 - Gifts to Departing Councillors
- Policy 6.8 - Notices of Motion
- Policy 6.9 - Publications by Individual Councillors
- Policy 6.16 – Investment
- Public Comment – Review of Policies

BACKGROUND

MOVED Cr Gangell, Seconded Cr Bridges, that Council adopts the Leadership and Governance Policies as attached to the Ordinary Council Agenda of 26 September 2017 and amended and endorsed by Council at the June 2017 Ordinary Council Meeting, excluding Policies 6.6, 6.7, 6.8 and 6.9, which will be referred to a workshop for further discussion.

A Councillors' Information workshop was held on 21 November 2017 and a number of amendments were suggested by Councillors.

COMMUNITY ENGAGEMENT

At the September 2017 OCM, the following comments on Community Engagement were included in the report presented to Council:

*“The endorsed policies were put for a period of public comment from 21 July to 23 August 2017. The policies were available on line via the Town’s “Your Say Bassendean” community engagement platform and in hard copy at the Customer Services Centre and the Bassendean Library.*

*Awareness to the request for comment was through an article in the Eastern Reporter newspaper, several posts on the Town’s Facebook page and posting on the Town’s website.*

*Comment was sought for a period of more than 4 weeks. In all, the community engagement platform received 78 visits over the consultation period with daily page view spikes appearing to correlate with the three Facebook page posts.*

*Of the total visits, 66 participants visited the project or tool page; 12 participants visited multiple pages and 7 participants downloaded a document. One respondent participated in the survey with a submission. One hard copy submission was also received.*

*Both submissions received commented on multiple policies.*

*The table in the attachment includes details of the respondent, their comment in full and a response to each comment from the Corporate Management Team.*

*The Officer recommendation is to confirm only the changes made by Council.”*

#### STRATEGIC IMPLICATIONS

The Strategic Community Plan 2017-2027 includes a strategy to strengthen governance, risk management and compliance within the Good Governance Strategic Priority.

#### COMMENT

The attached policies include the “track changes” to the existing policies that were discussed at the workshop held on 21 November 2017.

Policy 6.12 - Community Consultation will be referred to Council in February/March 2018 following the completion of a new Community Consultation Strategy.

#### STATUTORY REQUIREMENTS

Local Government Act 1995

#### FINANCIAL CONSIDERATIONS

Nil.

**OFFICER RECOMMENDATION - ITEM 10.8**

That Council adopts Governance Policies 6.6; 6.8; 6.9; and 6.16, as attached to the Ordinary Council Agenda of 30 January 2018.

**Voting requirements: Absolute Majority**

**10.9 Audio Council Chamber, Audio Recordings of Agenda, Briefing Sessions, Ordinary Council Meetings and Special Council Meetings to the Public via the Website (Ref: GOVN/CCLMEET/1 - Mike Costarella, Director Corporate Services)**

APPLICATION

The purpose of this report is for Council to consider:

1. Quotations received for the upgrade of the Audio Recording and Public Address system for the Council Chambers;
2. The advantages and disadvantages of live streaming Council, Committee meetings and Briefing Sessions; and
3. The amendment to Policy 6.7 to reflect the Council resolution.

ATTACHMENTS

**Confidential Attachment No. 1:**

Quotes received for the upgrade of the Audio and Public Address system in the Council Chambers, including the option of live streaming for video and audio.

**Attachment No. 8:**

- Legal Opinion from McLeods Barrister & Solicitors.
- Policy 6.7 - Electronic Recording of Council Meetings.

BACKGROUND

At the November 2017 OCM, Council resolved (OCM – 34/11/17) MOVED Cr Hamilton, Seconded Cr McLennan, that Council:

1. *Requests the CEO investigates the most economical options for improving audio amplification in Council Chamber to:*
  - a. *facilitate the proceedings of Council meetings and the voices of all speakers being audible to members of the public in attendance; and*
  - b. *improve the quality of audio recordings of Council meetings;*
2. *Requests the CEO report back to Council at the January OCM and presents quotes for the purchase and installation of a suitable amplification system for Council consideration; and*

3. *Considers allocation of funds in the draft 2017/18 Budget review for the above. CARRIED UNANIMOUSLY 7/0*

Council also resolved (OCM – 35/11/17) MOVED Cr Hamilton, Seconded Cr Wilson, that Council:

1. *Affirms its commitment to being an accessible and transparent local government;*
2. *Commits to providing, as a minimum, audio recordings of Agenda Briefing Sessions, Ordinary Council Meetings and Special Council Meetings to the public via the website within three days of the date of each meeting from and including the Ordinary Council meeting held on 28 November 2017;*
3. *Requests staff explore simple, economical options for video recordings and streaming of meetings and provide a report back to the January Ordinary Council Meeting for Council's consideration;*
4. *Considers the adoption of a "Council Meeting Recording & Web Streaming" policy at the January Ordinary Council Meeting in line with the draft policy attached to this agenda; and*
5. *Requests staff trial Facebook Live to stream Agenda Briefing Sessions, Ordinary Council Meetings and Special Council Meetings for a six month period to commence no later than January 2018, and provide a report back to the June Ordinary Council Meeting for Council's consideration of the benefits or otherwise of using said medium.*

Following the November Council meeting, Staff advertised a request for quote for the upgrade of the Council Chambers audio recording and public address system, including an option to livestream Council meetings and this closed on the 12 January 2018.

The specifications also included a “audio loop” which is required to assist people with hearing aids. Contractors pointed out that audio loops allow users to access outside the room and so a kill switch would be required when Council went behind closed doors. Most recommended a microwave alternative which does not require a kill switch, because the signal does not penetrate walls or windows.

The Town was also advised that the ceiling in the Chamber is not suitable for an audio loop and if it was the preferred method, the carpet would need to be lifted and it be relocated on the floor.

The CEO and the Director of Corporate Services had on site meetings with 3 contractors and two have provided quotes for the upgrade.

Council should be aware that there is currently no funding in the 2017/18 budget for this purpose.

### COMMUNICATION & ENGAGEMENT

A Request for Quote was advertised and closed on 12 January 2018.

### STRATEGIC IMPLICATIONS

#### **Strategic Priority 5. Good Governance**

*Objective 5.1 - Enhance organisational accountability*

### COMMENT

The Town has been using an analogue system for recording of Council meetings for since 2005 and the recordings are used to assist in the compilation of the minutes of the meetings as well as (on request) provide a copy to members of the public. Since the development of the new website, the Town also includes a copy of the recordings for public access.

There is a disclaimer attached to the meeting recordings as follows:

*“The recordings are not the official record of the Council meeting and Council cannot guarantee the accuracy or the quality of the recording and it cannot be assumed to be the complete record of proceedings”.*

The official record of any Committee or Council meetings, are the minutes confirmed by the Committee or Council. The confirmed minutes are a legal document that can be used in the legal jurisdiction. There is no legal requirement for the Town to provide recordings of meeting on either its website or to the members of the public. However, the recordings are a record of the Town.

## **Legal Advice**

There is some concern expressed by Denis McLeod from McLeods Barrister Solicitors on the use of recording of Council and Committee meetings and livestreaming.

Mr McLeod has been a legal representative for Local Government for the past 40 years and his advice is considered invaluable when defending the actions of local governments.

A copy of the legal advice is included as an attachment.

The advice cautions Councils in the use of recordings available to the public given that *“Council members do not enjoy the protection of absolute privilege from actions for defamation for what is said in their meetings, in stark contrast with the protection of absolute privilege enjoyed by members of Parliament for what is said in their sessions.”*

For this reason alone, Council should take serious note of the advice provided by Mr McLeod. To do otherwise could expose individual Councillors and or Council to possible legal liability that could not be defended, given that the legal advice provided explains the reasons for not providing recordings of meetings to the public or live streaming,

Further, Mr McLeod mentions the vast difference between the decision making of the State Government in comparison to Local Government as well as the Comparison of Council quasi-judicial functions with Courts and tribunals.

There are a number of Councils that provide recording of meetings for the public and some that have their meetings live streamed. In discussion with one large metropolitan Council (who provide live streaming of their Council meetings), it was stated that the use of the live streaming facility by member of the public is low and less than 10 people used the option of live streaming. The population of this Council exceeds 200,000. For the information of Councillors, four of the 10 people were Staff members monitoring the livestream.

## **Insurance Liability Advice**

In the legal advice, staff also sought advice from its Insurer Broking Service, LGIS, in relation to the impact on Council's Management liability policy.

Thank you for providing our office with the Legal Opinion by Denis McLeod on live streaming of council meetings.

This query was raised with me a few weeks ago and my immediate concern was the potential impact on Council's Management Liability policy. I referred this to Chubb Insurance and this was their advice":

*"My immediate thoughts turn to potential to raise issues of breach of privacy, defamation and discrimination.*

*Privacy issues can be raised as streaming and recording the meetings could pose as a threat to persons not properly advised of the recording of the meetings who have a need for their location to remain confidential. Issues could also be raised if the council places a recording of a person on their site that did not consent to the use of their image.*

*Council also needs to be aware that any potential defamatory or discriminatory comments made during the meeting would be streamed to and remain available to the public, widening their circulation and therefore potentially increasing their damage and the number of persons who may claim damages. The recordings would be used as evidence against the person/s making the statements which may directly impact the ability to argue a defence.*

*All of this does have the potential to directly and materially impact the C&O. If Chubb were to receive a claim that relied on such evidence the impact on premium would be immediate and significant as we would expect if there is one claim others will follow.*

*Whilst I acknowledge that this potentially is the way of the future, given the litigious nature of our Society and that council will always be under constant close scrutiny from disfranchise community and ratepayers, we would ask that the Town of Bassendean consider this matter carefully"*

LGIS Legal Consultant Paul McBride, is offering to provide some risk based decision training that will provide Council with greater understanding of the potential impact of live streaming on your Scheme Liability protection and Management Liability policies.



### **Policy 6.17- Electronic Recordings of Council Meetings**

Given the legal and insurance advice, Staff have amended the Policy to ensure that Council is not exposed to potential liability in making the recording of meetings public. The issue of livestreaming is also addressed in the opinions provided and this has been excluded from the policy.

Council may wish to ignore this advice and change the policy to allow live streaming and recordings to be available on the Town's website. It is acknowledged that some local governments do this.

#### **STATUTORY REQUIREMENTS**

Council is required to keep minutes of meetings in accordance with the Local Government Act and its Standing Orders Local Law 2011.

#### **FINANCIAL CONSIDERATIONS**

There is currently no funding available for this purpose in the 2017/18 Budget.

#### **OFFICER RECOMMENDATION — ITEM 10.9**

1. That Council:
  - a) Upgrades of the Council Chamber public address system and recording system to a digital system;
  - b) Allocates an amount of \$14,000 in the 2017/18 Budget review for this purpose; and
  - c) In accordance with the legal advice received by the Town, amends its Policy 6.7 - Electronic Recording of Council Meetings, and does not provide copies of meeting recordings to the public or live streaming of its Council, Committee or Briefing Sessions.

OR

2. That Council invites LGIS Legal Consultant, Mr Paul McBride, to provide training that will provide Council with a greater understanding of the potential impact of live streaming on its Scheme Liability protection and Management Liability policies.

**Voting requirements: Simple Majority**

**10.10 Appointment of Councillors to Statutory Committees (Ref: GOVN/CCLMEET/1 – Yvonne Zaffino, Council Support Officer)**

**APPLICATION**

Councillors are requested to consider nominating as delegates on Council's internal Statutory committees for a two year period, expiring on the next ordinary Local Government election day, unless otherwise indicated.

**BACKGROUND**

Council adopted its new Committee structure in November 2017. It was also resolved that Statutory Committee vacancies be advertised prior to the appointment of Councillors to those Committee. Advertising for these appointments has now closed and is subject to a confidential report which forms part of this agenda.

**COMMENT**

In accordance with Council Policy, appointments to Committees are for a period of two years. Where a Councillor is to be appointed to an external body and there are more nominations than vacancies, the CEO is to conduct a secret ballot using the first past the post system to establish the preferred delegate or delegates to fill the position. In the event of a tied vote for a position, lots will be drawn by the CEO to determine the preferred delegate.

Council is to endorse the preferred delegate/s to be appointed to the vacant position/s and for the next preferred delegate to be appointed the deputy for the position to carry out the duties of the appointed Councillor in his or her absence when required.

**STATUTORY REQUIREMENTS**

Local Government Act 1995, Section 5.25(1)(g) and Local Government (Administration) Regulation 12.

**FINANCIAL CONSIDERATIONS**

Councillors are paid an annual fee for Committee and Council meetings and this is included in the 2017/18 adopted Budget.

**COMMENT**

The following table shows the number of delegates and deputy delegates required for each Committee:

<b>Committee</b>	<b>Member(s)</b>	<b>Deputy</b>
Access and Inclusion Committee	1 member	1 member
Audit and Governance Committee	3 members	1 member
Bassendean Local Emergency Management Committee	2 members	1 member

In the event that a delegate is unable to attend a meeting of an external body, then the Mayor then the Deputy Mayor and other Councillors in order of length of service, is to be appointed to become deputies to Committees in the absence of the first and second deputies. Where two Councillors have the same length of service then the order shall be by alphabetical listing.

**OFFICER RECOMMENDATION – ITEM 10.10**

That Council appoints the following Councillors to be Members and Deputy Members to the following Statutory Committees for the 2017/19 term:

<b>Committee</b>	<b>Member(s)</b>	<b>Deputy</b>
Access and Inclusion Committee	Cr _____	Cr _____
Audit and Governance Committee	Cr _____ Cr _____ Cr _____	Cr _____
Bassendean Local Emergency Management Committee	Cr _____ Cr _____	Cr _____

**Voting requirement: Absolute majority**

**10.11 Quarterly Report for Period Ended 31 December 2017 (Ref: FINM/AUD/1 – Bob Jarvis, Chief Executive Officer)**

APPLICATION

The purpose of this report is for Council to receive the Quarterly Report for the period ended 31 December 2017.

ATTACHMENTS

**Attachment No. 9:**

Quarterly Report P/E 31 December 2017

BACKGROUND

Council's Quarterly Report format addresses progress against the CEO's Key Performance Indicators, as well as providing a progress report on budget deliverables in the 2017-2027 Corporate Business Plan, where those deliverables will commence in the current financial year.

The Quarterly Report also provides information on the progress of cash in lieu projects and grants applied for and received in each quarter.

Included in this quarter also is a summary of activities in the environmental health area, which will be included in future reports.

STRATEGIC IMPLICATIONS

Strengthen Council governance and compliance.

OFFICER RECOMMENDATION – ITEM 10.11

That Council receives the Quarterly Report for the quarter ended 31 December 2017.

**Voting requirements: Simple majority**

**10.12 Determinations Made by the Principal Building Surveyor  
Ref: LUAP/PROCED/1 – Kallan Short, Principal Building  
Surveyor)**

The Principal Building Surveyor made the following building decisions under Delegated Authority:

<b>Building Applications Determined in the Month of December 2017</b>		
<b>Application No</b>	<b>Property Address</b>	<b>Description</b>
201700291	25 TROY STREET, BASSENDEAN	SPA & FENCE
201700259	73 WHITFIELD STREET, BASSENDEAN	SINGLE DWELLING
201700277	5 SEVENTH AVENUE, BASSENDEAN	SINGLE DWELLING
201700332	22 FIFTH AVENUE, BASSENDEAN	DEMOLITION
201700330	11 TROY STREET, BASSENDEAN	PATIO
201700333	21 CHEDWORTH WAY, EDEN HILL	FULL DEMOLITION
201700331	12 MARGARET STREET, ASHFIELD	EXTENSION TO SHED
201700335	6 PALMERSTON STREET, BASSENDEAN	ANCILLARY ACCOMMODATION
201700311	15 KENMURE AVENUE, ASHFIELD	RETAINING WALL
201700319	30 BRIDSON STREET, BASSENDEAN	REMOVE & REPLACE REAR SHED ROOF
201700315	17 KENMURE AVENUE, ASHFIELD	RETROSPECTIVE RETAINING WALL
201700316	7 CLARKE WAY, BASSENDEAN	FENCE APPLICATION
201700312	4 MARY CRESCENT, EDEN HILL	SINGLE DWELLING AND GARAGE
201700310	LOT 271 HAMILTON STREET, BASSENDEAN	RETAINING AND EARTHWORKS
201700314	87 VILLIERS STREET WEST, BASSENDEAN	ADDITIONS/ALTERATIONS
201700308	12 GERALDINE STREET, BASSENDEAN	CARPORT
201700324	66 MICKLETON TERRACE, BASSENDEAN	SINGLE DWELLING & RETAINING
201700328	50 RUGBY STREET, BASSENDEAN	CARPORT
201700320	33 BLOCKLEY WAY, BASSENDEAN	RETAINING WALL
201700329	6 FOURTH AVENUE, BASSENDEAN	COLORBOND WORKSHOP
201700323	14 IOLANTHE STREET, BASSENDEAN	PATIO X 2

**OFFICER RECOMMENDATION – ITEM 10.12**

That Council notes the decisions made under delegated authority by the Principal Building Surveyor.

**Voting requirement: Simple majority**

**10.13 Determinations Made by Development Services (Ref: LUAP/PROCED/1 – Christian Buttle, Senior Planning Officer)**

The Manager Development Services made the following planning decisions under Delegated Authority since those reported to the last Council meeting:

<b>Planning and Subdivision Applications Determined to 12 Jan 2018</b>			
<b>Applic No.</b>	<b>Property Address</b>	<b>Description</b>	<b>Determination</b>
2011-224	1 RIVER STREET BASSENDEAN 6054	RE-ROOFING	DELEGATE REFUSED
2017-119	174 RAILWAY PARADE BASSENDEAN WA 6054	CHANGE OF USE (LUNCH BAR)	DELEGATE APPROVED
2017-123	99 NORTH ROAD BASSENDEAN 6054	ADDITIONS AND ALTERATIONS TO SINGLE HOUSE	DELEGATE APPROVED
2017-146	15 KENMURE AVENUE ASHFIELD 6054	ADDITIONAL DWELLING TO REAR OF EXISTING TO FORM TWO GROUPED DWELLINGS	DELEGATE REFUSED
2017-149	32A HAIG STREET ASHFIELD 6054	RETAINING WALLS	DELEGATE APPROVED
2017-153	75 HAMILTON STREET BASSENDEAN 6054	CARPORT	DELEGATE APPROVED
2017-154	6 PALMERSTON STREET BASSENDEAN 6054	ANCILLARY DWELLING & ADDITIONS/ALTERATIONS TO SINGLE HOUSE	DELEGATE APPROVED
2017-157	24 TROY STREET BASSENDEAN 6054	HOME OCCUPATION (HAIRDRESSING SALON)	DELEGATE APPROVED
2017-163	38 SCADDAN STREET BASSENDEAN 6054	AMENDED APPLICATION FOR 8 MULTIPLE DWELLINGS - APPLICATION TO EXTEND PERIOD OF VALIDITY OF APPROVAL	DELEGATE APPROVED
2017-165	11 TROY STREET BASSENDEAN WA 6054	PATIO	DELEGATE APPROVED
2017-167	19 BROADWAY BASSENDEAN 6054	ADDITIONS AND ALTERATIONS TO SINGLE HOUSE	DELEGATE APPROVED
2017-171	84 SCADDAN STREET BASSENDEAN 6054	DEMOLITION (DEPARTMENT OF HOUSING)	STATUTORY ADVICE
2018-002	36 JAMES STREET BASSENDEAN 6054	PATIO	DELEGATE APPROVED
	<b>Subdivision Applications</b>		
5-18	62 RAILWAY PARADE BASSENDEAN 6054	THREE LOT SURVEY STRATA	STATUTORY ADVICE

**OFFICER RECOMMENDATION – ITEM 10.13**

That Council notes the decisions made under delegated authority by the Manager Development Services.

**Voting requirement: Simple majority**

**10.14 Use of the Common Seal (Ref: INFM/INTPROP/1 – Sue Perkins – Executive Assistant)**

The Chief Executive Officer and the Mayor have been delegated the responsibility for affixing the Common Seal to documents requiring signing and sealing, and for reporting the exercise of that delegation to the next available Ordinary Meeting of the Council.

The Common Seal was attached to the following document during the reporting period:

- 19/12/17 Amendment No 9 to the Local Planning Scheme No 10 (Omnibus).
- 19/12/17 Amendment No 17 to the Town Planning Scheme No 4A.
- 19/12/17 Amendment No 10 to the Local Planning Scheme No 10 (Basic Amendment).
- 21/12/17 Transfer of Land - Lot 68 Villiers Street, Bassendean, between ASIC and the Town of Bassendean.

**OFFICER RECOMMENDATION – ITEM 10.14**

That Council notes the affixing of the Common Seal to the document listed in the Ordinary Council Meeting Agenda of 30 January 2018.

**Voting Requirements: Simple majority**

**10.15 Calendar for February 2018 (Ref: Sue Perkins, Executive Assistant)**

Tue	6 Feb	3.00pm	River Parks Committee Meeting – Council Chamber
Tue	6 Feb	6.00pm	Town Assets Committee Meeting – Council Chamber (Crs Mykytiuk, Wilson & Hamilton)
Wed	7 Feb	7.00pm	Design Bassendean Committee Meeting – Council Chamber
Tue	13 Feb	7.00pm	People Services Committee Meeting – Council Chamber
Wed	14 Feb	5.30pm	Audit & Governance Committee Meeting – Council Chamber
Thu	15 Feb	6.00pm	EMRC Council Meeting – EMRC (Crs Mykytiuk & Wilson)
Tue	20 Feb	7.00pm	Briefings Session – Council Chamber
Fri	23 Feb	5.00pm	Bassendean Youth Advisory Council Meeting – Bassendean Youth Service
Tue	27 Feb	7.00pm	Ordinary Council Meeting – Council Chamber

**OFFICER RECOMMENDATION - ITEM 10.15**

That the Calendar for February 2018 be adopted.

**Voting Requirements: Simple majority**



**10.16 Implementation of Council Resolutions (Ref: GOVN/CCLMEET/1 – Sue Perkins)**

***This item will form part of the Ordinary Council Agenda.***

**10.17 Accounts for Payment – December 2017 (Ref: FINM/CREDTS/4 – Ken Lapham, Manager Corporate Services)**

***This item will form part of the Ordinary Council Agenda.***

**10.18 Financial Statements – December 2017 (Ref: FINM/AUD/1 – Ken Lapham, Manager Corporate Services)**

*This item will form part of the Ordinary Council Agenda.*

## **11.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

### **11.1 Notice of Motion – Cr McLennan – Caretaker Period Policy**

Cr McLennan has advised that she wishes to move the following notice of motion at the Ordinary Council meeting to be held on 30 January 2018:

*“That Council:*

- 1. Endorses the introduction of a caretaker period in the lead up to ordinary local government elections; and*
- 2. Requests staff prepare a draft “Caretaker Period Policy” for Council’s consideration in advance of the next local government election scheduled for 2019.”*

#### **Background – Cr McLennan**

##### **Strategic Implications:**

Strategic Priority 5: Good Governance

Objective 5.1: Enhance organisational accountability

Strategy 5.1.3: Strengthen governance, risk management and compliance

The Department of Local Government encourages local governments to consider the introduction of caretaker periods prior to elections stating that *“caretaker period policies are well worth considering, and can help to protect both the reputation of a local government’s administration and its elected members”*.

[www.dlgc.wa.gov.au/Publications/Pages/Election-Bulletins.aspx](http://www.dlgc.wa.gov.au/Publications/Pages/Election-Bulletins.aspx)

Many local governments have already introduced a “Caretaker Period Policy” in order to avoid Council making major decisions prior to an election that would bind an incoming Council, prevent the use of public resources in ways that are seen as advantageous to or promoting the current elected members who are seeking re-election and to ensure that local government officers act impartially in relation to all candidates.

Examples of existing policies in other local governments include:

- City of Bayswater

[www.bayswater.wa.gov.au/cproot/5968/2/Caretaker-Period-Policy.pdf](http://www.bayswater.wa.gov.au/cproot/5968/2/Caretaker-Period-Policy.pdf)

- City of Gosnells  
[www.gosnells.wa.gov.au/files/3e120ef7-ec47-4e41-a44d-a0b600eb0bc0/Policy\\_5439\\_-\\_Elections\\_-\\_Caretaker\\_Period.pdf](http://www.gosnells.wa.gov.au/files/3e120ef7-ec47-4e41-a44d-a0b600eb0bc0/Policy_5439_-_Elections_-_Caretaker_Period.pdf)

- City of Vincent  
[www.vincent.wa.gov.au/agenda/2013/20131217/att/policy4.2.15.pdf](http://www.vincent.wa.gov.au/agenda/2013/20131217/att/policy4.2.15.pdf)

Immediately prior to the October 2017 local government election, several significant decisions were made by the Town of Bassendean Council, some of which have prompted revocation motions by the newly elected Council. One such decision was a controversial resolution relating to a 20-year waste management contract, which was an issue campaigned on by multiple candidates, with a decision ultimately being made within days of the new Council being elected. This series of events has highlighted the need for such a policy to be introduced in order to avoid this situation reoccurring in future.

## **11.2 Notice of Motion – Cr Hamilton: Casa Mia Roof**

Cr Hamilton has advised that she wishes to move the following notice of motion at the Ordinary Council meeting to be held on 30 January 2018:

*“That Council:*

- 1. Requests staff liaise with the owner of 13 Hamilton Street regarding the Town’s installation of zincalume roofing to the Casa Mia School at 11 Hamilton Street in an effort to seek an economical solution to the reflective glare issue it is reported to have created;*
- 2. Requests that a summary of the agreed course of action, together with the financial costings and any other implications be provided to Council for consideration prior to the commencement of any remedial works;*
- 3. Funds any remedial work from the residual balance of the initial budget allocation for the roofing works that is left over from the works completed in December 2017;*
- 4. Requests staff to prepare a “Reflective Roofing Policy” for Council’s consideration when reviewing the Town’s building policies; &*

5. *In future, when capital works are planned to be conducted on one of the Town's buildings that will potentially impact on adjoining properties, communication with the adjacent property owners about the proposed works will be undertaken prior to any works commencing.*

#### Background – Cr Hamilton:

The R Codes currently state:

*“Reflective roofs are useful and effective in reducing the heat absorbed by a dwelling. However, very highly reflective roofs sometimes cause glare and discomfort to neighbours. In some situations it may be desirable or necessary to use a material or finish, such as Colorbond, in a light but less reflective colour. Conversely, dark roofs increase absorption of heat and should be avoided.”*

There is implied obligation that good neighbourly consultation takes place where a reflective roofing material such as Zinalume may cause discomfort via glare. Unfortunately, in this instance, prior notification was not provided to the only close neighbour at 13 Hamilton Street which is a two story private residence.

The two properties at 11 & 13 Hamilton Street are in close proximity to each other (a total of 3 metres or less in some places, i.e. approximately 1.5 metres from each building to a shared long boundary fence-line). Number 11 originally had a tiled roofing material in a moss green hue that blended with the surrounding treed landscape and there were no reflective issues. Since the installation of the new zinalume roofing, the owners of 13 Hamilton have reported glare issues impacting their enjoyment of their home.

Suggested solutions may be found in the installation of window tinting for the affected northern side of 13 Hamilton Street, or anti-reflective coating for the southern side of newly installed roof at 11 Hamilton Street, or replacement of the southern roofing sheets with non reflective colourbond sheets, or by any other means that will achieve an economical reduction in glare with the consent of the owner of 13 Hamilton Street.

Many local authorities have Reflective Roofing Policies in place that provide detailed guidelines for the installation of products such as Zinalume.

For example:

- <https://www.perth.wa.gov.au/sites/default/files/2-2-ReflectiveRoofing.pdf>

- <http://www.subiaco.wa.gov.au/CityofSubiaco/media/City-of-Subiaco/Planning-anddevelopment/Lodging-a-development-application/FINAL-Amended-Local-Planning-Policy-2-2-Reflective-RoofingFebruary-2017.PDF>

At this time the Town of Bassendean does not have a similar detailed policy in place. This should be rectified at the earliest opportunity.

### 11.3 **Notice of Motion – Cr Quinton: LED Light Report**

Cr Quinton has advised that she wishes to move the following notice of motion at the Ordinary Council meeting to be held on 30 January 2018:

*“That Council:*

- a) *Request staff investigate Western Power’s recently completed Local Government procurement process to upgrade street lamps with LED luminaires; and*
- b) *Request that staff prepare a report for the first Sustainability Committee meeting on March 13, 2018 detailing:*
  - i. *The current list of LED lights within the Town of Bassendean;*
  - ii. *The current underground power by street;*
  - iii. *The current cost of power to the Town on a monthly basis;*
  - iv. *The current Co2 emissions calculated over 12 months;*
  - v. *The expected cost to transition to LED lights based on Western Power’s new LED procurement process;*
  - vi. *The expected financial cost and Co2 savings once transitioned.”*

#### Background – Cr Quinton

##### **Strategic Implications:**

Strategic Priority 2: Natural Environment

Objective 2.1: To display leadership in environmental sustainability

Strategy 2.1.1: Strengthen environmental sustainability practices and climate change mitigation

The Western Australian Local Government Association released a discussion paper on the energy efficient lighting by local governments which states:

*Local Governments are legally responsible for providing street lighting in Western Australia and paying for the energy use and maintenance of minor road and residential street lighting. Of these street lights, the majority are owned and maintained by the electricity distribution utilities. Main Roads WA pays 50 per cent of the street lighting costs on highways and other state roads and for all lighting on controlled access highways and freeways.*

*Street lighting is a key consideration for the Western Australian Local Government sector from several perspectives; including environmental, economic and community safety. It can easily be argued that local street lighting is core business for Local Governments.*

*Local Governments around Australia understand that there are massive energy, cost, and greenhouse savings to be made from changing over street lighting to more energy efficient alternatives. Improving the energy efficiency of street lighting can reduce costs and free up resources for other pressing community needs.*

### **5.1 Increased Costs**

*According to the Association's conservative estimates, approximately one third of Local Government energy expenditure, estimated at \$40 million per annum in Western Australia, goes toward street lighting tariffs.*

*Street lighting tariffs in Western Australia have increased by over 100 per cent since 2007/08. Additionally, Local Governments are alarmed by the 2014/15 State budget's forecast that street lighting tariffs will increase by 37 per cent in 2015/16 and 8 per cent in 2016/17. The Association estimates that the proposed 2015/16 tariff increase alone will represent an additional cost of \$15 million per annum to the Local Government sector.*

### **5.2 Greenhouse Emissions**

*For most Local Governments, street lighting is the largest source of greenhouse gas emissions. The Association is aware of one particular instance, where street lighting accounted for approximately 44 per cent of a Local Government's total greenhouse emissions. The Shire of Capel calculated that their street lighting emissions were almost as great as the emissions from electricity use at the Shire's facilities, and all emissions from fuel use in Shire's fleet combined<sup>2</sup>. This is a substantial amount of emissions for individual Local Governments.*



<http://walga.asn.au/getattachment/Policy-Advice-and-Advocacy/Environment/Climate-Change/Climate-Change-Projects-and-Resources/Street-lighting-Discussion-Paper.pdf.aspx?lang=en-AU>.

#### LEDs

In 2011, Western Power, after significant advocacy from the Association and the Local Government sector, introduced a 42W Compact Fluorescent Lamps (CFL), a more sustainable alternative, into its lighting options. This allowed Local Governments access to 42W CFL technology.

There has been no substantial take up of CFL technology by Local Governments to date. It could be argued that the CFL tariff was not cost comparative with existing technologies; and the capital cost of the infrastructure upgrade (luminaire) to accommodate the new lamps was to be borne entirely by the Local Government.

#### 11.4 **Notice of Motion – Cr Brown: Industrial Land adjacent and to the north west of Ashfield Train Station, situated on Railway Parade, Ashfield**

Cr Brown has advised that he wishes to move the following notice of motion at the Ordinary Council meeting to be held on 30 January 2018:

*“That the Town of Bassendean approach the Minister for State Planning seeking to generate discussion on the subject of development, for multi-storey residential purposes, upon that industrial land adjacent and to the north west of Ashfield Train Station, situated on Railway Parade, Ashfield.”*

#### **Background – Cr Brown**

Under the State Government urban density plans the Town is committed to increasing housing density by 70% by 2050.

Only so much can be achieved by changing Building R Codes to allow subdivision and higher densities in established residential areas.

Indeed some plans being considered would cause serious social disruption within these residential areas.

As suitable land is the issue, converting industrial land that is no longer used for heavy construction and industry may be a solution. Engaging with current owners and opening dialog on changing land use criteria for industrial land adjacent to the transport hub of Ashfield Train Station should be considered as an option in achieving the Town's residential density goals.

Converting this industrial land to high-rise residential use, similar to the development on Railway Parade Maylands, may be less problematic than the current socially disruptive options, particularly as outlined in the now defunct Ashfield Precinct Plan.

The land in question was once the site of heavy manufacturing industry but this use has changed in past decades. Indeed it seems that some of this infrastructure may have been acquired as investment for future residential expansion, considering the current tenancy.

To achieve a transition Government may consider regulation changes and incentives for existing industry to relocate.

Furthermore, development of this land would certainly be the catalyst for development of the Ashfield 'Hub'. For example a new railway station, a commercial and community centre replacing the existing run down shopping centre and other acceptable development options may result.

#### **11.5 Notice of Motion - Cr Wilson: Waste Strategy**

Cr Wilson has advised that he wishes to move the following notice of motion at the Ordinary Council meeting to be held on 30 January 2018:

*"That Council:*

- 1. Revokes the decision of the Ordinary Council Meeting held 30 October 2017 (OCM - 30/1/17) – Item 13.3 - Eastern Metropolitan Regional Council Resource Recovery Facility – Participant Agreement for Waste Supply and Financiers Side Deed, update, and progress on request for extension Council Resolution - Item 13.3), which reads:*

*"1. Council authorises the Chief Executive Officer, in consultation with the Mayor, to immediately seek legal advice and make changes to the Agreements forming the confidential attachments to the 17 October 2017 Ordinary Council Meeting agenda; and*

2. Council commits to support the Participants Agreement for a Waste Supply Agreement and the Financier Side Deed (attached as confidential items to the Ordinary Council Meeting agenda of 17 October 2017), subject to being negotiated to the satisfaction of the Town of Bassendean in regard to the independent legal advice received by the Town;
3. Council authorises the Mayor and the Chief Executive Officer to sign the Participants Agreement for a Waste Supply Agreement and the Financier Side Deed with the Security Trustee under Common Seal (attached as confidential items to the Ordinary Council Meeting Agenda of 17 October 2017), subject to the satisfactory amendments as detailed in point 2 above; and
4. The report and attachments remain confidential and be certified by the Mayor and Chief Executive Officer.”

And

“2. *Advises the EMRC:*

- a) *That the Town of Bassendean has committed to developing a waste strategy, in conjunction with the community, with the purpose of reducing the Town's waste production and increasing the Town's waste diversion levels through waste management according to measures higher up the waste hierarchy than disposal;*
- b) *Therefore, the Town of Bassendean will not be committing any of its residual waste to a long term contract for a waste-to-energy Resource Recovery Facility in East Rockingham at this stage;*
- c) *That instead, the Town would like to work with the EMRC to explore undertaking a trial/scalable anaerobic digester facility at the EMRC's Red Hill site for the Town's residual waste; and*
- d) *That the Town of Bassendean reaffirms its commitment to the EMRC and its desire to remain within the regional Council.”*

Crs McLennan, Hamilton and Quinton support the revocation motion.

**Confidential Attachment No. 3:** EMRC Memo RRF Tender

**11.6 Notice of Motion – Cr Wilson: Hire of Facilities**

Cr Wilson has advised that he wishes to move the following notice of motion at the Ordinary Council meeting to be held on 30 January 2018:

*“That Town staff prepare a report for the consideration of Council advising Council on the options, including in contract, of making it a condition of hire of any of the Town's facilities that any advertising for events held at those facilities by the applicant clearly state who the applicant hiring the facility is.”*

**Background – Cr Wilson**

I have been informed of community concern that some events held by organisations at our Town's facilities do not make it clear who is running the event.

It is desirable that it is clear to the public who is organising events at Town facilities so that people can make informed choices about whether they participate in those events.

**12.0 ANNOUNCEMENTS OF NOTICES OF MOTION FOR THE NEXT MEETING**

*This item will form part of the Ordinary Council Agenda.*

**13.0 CONFIDENTIAL BUSINESS**

**13.1 Appointment of Members to Committees – 2017 to 2019 (Ref: GOVN/CCLMEET/1 - Yvonne Zaffino, Council Support Officer)**

*This matter is to be considered with members of the public excluded from the Chamber under Clause 5.23 (2) (b) of the Local Government Act 1995, as the officer report discusses information of a personal nature.*

**13.2 Chief Executive Officer - Contract of Employment (Ref: HR/PER-FIL/2018 - Mike Costarella, Director Corporate Services)**

*This matter is to be considered with members of the public excluded from the Chamber under Clause 5.23 (2) (c) and (d) of the Local Government Act 1995, as the Officer report discusses details of the CEO's contract.*

**14.0 CLOSURE**

The next Briefing Session will be held on Tuesday 20 February 2017 commencing at 7.00pm.

The next Ordinary Council meeting will be held on Tuesday 27 February 2018 commencing at 7.00pm.